

IC 8-22-2

Chapter 2. Local Boards of Aviation Commissioners

IC 8-22-2-1

Department of aviation

Sec. 1. (a) Whenever the fiscal body of an eligible entity adopts an ordinance or a resolution in favor of the acquisition, improvement, operation, or maintenance of an airport or landing field for the entity under this chapter, and declaring a necessity for the airport or landing field, then on the effective date of the ordinance or resolution, there is established as an executive department of the entity a department of aviation, under the control of a board to be known as the board of aviation commissioners.

(b) The following apply to a board of aviation commissioners established under this chapter:

- (1) Except as provided in subsections (e) through (f), the board consists of four (4) members.
- (2) Except as provided in subsection (e), the executive of the entity shall appoint the members of the board.
- (3) Except as provided in subsection (f), not more than two (2) of the members of the board may be of the same political party.

(c) The fiscal body of the entity may provide a per diem for the members of the board in any amount not exceeding thirty-five dollars (\$35) for each whole or part day a member is engaged in board activities. The members of the board shall also be paid their actual expenses, which may include the expenses of the members or employees of the board in attending meetings or conventions held to discuss aviation matters.

(d) Before beginning the duties of office, each board member shall take and subscribe the usual oath of office, to be endorsed upon the certificate of appointment, and shall cause that to be filed with the clerk or other officer performing duties similar to that of clerk in the entity. Any person who does not file the oath with the clerk or other officer performing duties similar to that of the clerk within thirty (30) days after the beginning of the term for which he has been appointed, or at the date of his appointment, if appointed after the beginning of the term, is considered to have refused to serve and the office becomes vacant.

(e) Notwithstanding subsection (b), if a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) has established a board, the county council and the mayors of the two (2) cities in the county having the largest populations may each appoint one (1) additional member to the board, thereby creating a board consisting of a total of seven (7) members. The three (3) additional members serve in the same manner, are accorded the same status, and perform the same duties as the four (4) initial board members, and serve terms of four (4) years. If either the county council or either of the two (2) mayors fails to make appointments to the board, that fact does not prejudice appointments that may be made by the other appointing authority or

authorities.

(f) This subsection applies to the following:

- (1) A county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000).
- (2) A county having a population of more than thirty-six thousand (36,000) but less than thirty-six thousand seventy-five (36,075).

Notwithstanding subsection (b), if a county has established a board under this chapter, the county executive may add one (1) additional member to the board so that the board has a total of five (5) members. Not more than three (3) of the five (5) members of the board may be of the same political party. The one (1) additional member shall serve in the same manner, be accorded the same status, and perform the same duties as the four (4) initial members, and serve a four (4) year term.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1981, P.L.113, SEC.1; P.L.12-1992, SEC.66; P.L.58-1994, SEC.1; P.L.115-1995, SEC.2; P.L.116-1995, SEC.2; P.L.170-2002, SEC.68.

IC 8-22-2-2

Members of board of aviation commissioners; qualifications; restrictions

Sec. 2. (a) To be eligible to be a member of the board of aviation commissioners, a person must:

- (1) be at least eighteen (18) years of age;
- (2) be a resident of the county in which the eligible entity is located;
- (3) not be actively engaged or employed in commercial aeronautics;
- (4) not hold any other governmental office (by appointment or election) that has statutory fiscal or management review of the board's actions; and
- (5) not serve as a member of any other agency, board, commission, department, or other governmental entity that:
 - (A) is located within the jurisdiction of the department of aviation; and
 - (B) has statutory fiscal or management review of the board's actions.

(b) The restrictions on membership qualifications contained in subsection (a)(4) and (a)(5) apply only to counties in which are located:

- (1) consolidated cities; or
- (2) second class cities.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.129-1987, SEC.1; P.L.5-1988, SEC.53.

IC 8-22-2-3

Terms of office of board members

Sec. 3. The first members of the board hold office as follows: one (1) for the term of one (1) year; one (1) for the term of two (2) years;

one (1) for the term of three (3) years; and one (1) for the term of four (4) years, from twelve o'clock noon on the first Monday in January of the year of their appointment. On the expiration of the respective terms, the executive shall appoint a commissioner or commissioners to fill the vacancies caused by the expiration, and the commissioner or commissioners so appointed hold office for a term of four (4) years, and until their successors are appointed and qualified, and if a vacancy occurs in the board by resignation or otherwise, the executive shall appoint a commissioner for the remainder of the term. The executive of the eligible entity may, at any time, remove a commissioner from office, but only upon filing in writing with the clerk or other officer performing duties similar to that of clerk in entities having no clerk, the reasons for the removal. *As added by Acts 1980, P.L.8, SEC.73.*

IC 8-22-2-4

Officers of board; office facilities; reports; expenditures; meetings

Sec. 4. The board shall choose, annually, at its first regular meeting in January, one (1) of its members president, and another of its members vice president to perform the duties of the president during the absence or disability of the president. The eligible entity shall provide a suitable office for the board in the entity, or, at the option of the board, at the airport, at the expense of the department of aviation, where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times. Before February 2 each year the board shall make a report to the executive of its proceedings with a full statement of its receipts and disbursements for the preceding year, including a report of the acquisition of air navigation facilities and of other property that has come under the control of the board, improvements made, general character of the work of the board, and progress of aviation and air commerce under its control. Money received by the board shall be paid into the entity's treasury and credited to the department of aviation, and all expenditures relating to the property and business under the control of the department, except as otherwise provided, may be provided for by special levy of taxes under section 7 of this chapter, and shall be paid from the entity's treasury when ordered by the board. A majority of the members constitutes a quorum, and an action of the board must be taken by a majority of the members at a regular or duly called special meeting. In case of a tie vote on any question, the executive shall decide. The board shall fix a time for holding regular meetings. Regular or special meetings shall be held at the office of the board or at another public place in any county where the board owns or operates an airport. Special meetings of the board may be called at any time by its president, or by any two (2) of its members, upon a written request to the secretary. Whenever in the opinion of the president or of any two (2) members, a special meeting is necessary, he or they shall cause the secretary to notify the members by mailing written notice of the time of the meeting, at least one (1) day before the meeting. A member may waive notice in

writing and the presence of a member at a special meeting is considered a waiver of notice.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.137-2000, SEC.1.

IC 8-22-2-5

Powers of board

Sec. 5. (a) The board may adopt and use a seal. Applications, assurances, contracts, and other instruments necessary in the board's performance of its duties and the exercise of its powers may be executed in its name or in the name of the eligible entity, as the case may be, by the president or vice president of the board and attested by its secretary or assistant secretary. However, the board may by resolution prescribe another method of execution.

(b) The board, on behalf of the eligible entity, exclusively has the following powers:

(1) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports and landing fields and other air navigation facilities, for the use of airplanes and other aircraft, either inside or outside the corporate limits of the entity, subject to statutory limitations; to acquire by lease (with or without the option to purchase) airports, landing fields, air navigation facilities, and any other structures, equipment, and related improvements; and to erect, install, construct and maintain at those airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public; and the fiscal body of the entity may by ordinance provide that any land suitable for these purposes that is owned by the entity shall be put under the control of the board of aviation commissioners for aviation and public purposes. However, if at the time of the creation, appointment, and qualification of the board in an entity, the entity owns or controls an airport, landing field, or other air navigation facilities, then the exclusive control, management, and authority over the airport, landing field, or other air navigation facilities shall at once be transferred to the board without the adoption of an ordinance; and the department, board, officer, or officers of the entity, or other persons having possession or control, shall at once turn over and deliver to the board all personal property, records, books, plans, maps, and other papers and documents relating to the aviation business of the entity. The unexpended balance of any fund or funds appropriated by the entity for aviation purposes becomes a part of the aviation fund of the department of aviation. Before land may be purchased by an entity for the establishment of an airport or landing field or an airport or landing field may be established by an entity the action or acquisition of land must be granted by the aeronautics commission of Indiana.

(2) To elect a secretary from its membership or to employ a secretary, and to employ superintendents, managers, engineers,

surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate their compensation, in accordance with the appropriations made by the fiscal body of the entity. All employees shall be selected irrespective of their political affiliations.

(3) To make rules and regulations, consistent with law, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control. The board may require a special detail of police or hire guards to execute the orders and enforce the rules and regulations.

(4) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field. However, a lease must be approved by ordinance or resolution of the fiscal body of the entity before it takes effect.

(5) To manage and operate all airports, landing fields, and other air navigation facilities acquired or maintained by the entity; and to lease all or part of an airport, landing field, or any buildings or other structures to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, through its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding fifteen (15) years, and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding forty (40) years, and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport, on land belonging to the airport. A lease may be entered into for a period not to exceed ninety-nine (99) years. However, the fiscal body must pass an ordinance authorizing the board to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the

board prescribes.

(6) To sell machinery, equipment, or material under the control of the board belonging to the eligible entity that is not required for aviation purposes. The proceeds shall be deposited with the entity's treasurer or controller to the credit of the department of aviation.

(7) To negotiate and execute contracts of sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control. However, whenever the board determines to sell part or all of aviation lands or improvements owned by the eligible entity, the sale must be in accordance with section 8 of this chapter.

(8) To vacate all or parts of roads, highways, streets, or alleys in land under control of the board in the manner provided by statute.

(9) To approve, together with the fiscal body of the entity, any state, county, city, or other highway, road, street, or other public way, railroad, power line, or other right of way that may be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(10) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them, in the same manner that the eligible entity may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and officers of the entity to secure the proper orders and approvals.

(11) To order a public utility or public service corporation or other person to remove or to install in underground conduits, wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations of the airport or landing field, upon payment to the utility or other person due compensation for the expense of the removal or reinstallation. The board must consent to any franchise granted by state or local authorities for the construction or maintenance of any railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent to the installation of overhead electric power lines carrying a voltage of over forty-four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2)

mile of a landing area acquired or maintained under this chapter.

(12) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1981, P.L.57, SEC.28; P.L.130-1987, SEC.1; P.L.29-1999, SEC.1.

IC 8-22-2-6

Contract procedures; emergencies

Sec. 6. For all contracts for improvements and purchases, other than those for professional services and those for the acquisition of land, structures, easements, and rights-of-way, IC 5-22 and IC 36-1-9.5 apply. In case of an emergency being declared by the board, the board may purchase necessary materials under IC 5-22-10 without advertising for bids.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.130-1987, SEC.2; P.L.85-1991, SEC.1; P.L.49-1997, SEC.35.

IC 8-22-2-7

Breach of agreements; rules and regulations; taxation; reports of estimated appropriations; reserve or depreciation account

Sec. 7. (a) The board may, in the name of the eligible entity, take action to recover damages for the breach of an agreement, express or implied, relating to the operation, control, leasing, management, or improvement of the property under its control, to impose the penalties for the violation of ordinances of the entity or of its rules or regulations, and for injury to the personal or real property under its control, and to recover possession of any such property. All rules and regulations that the board adopts under this chapter shall be published in accordance with IC 5-3-1.

(b) In addition to other taxes of the eligible entity, a tax may be levied annually by the fiscal body for aviation purposes, and the entity's treasurer shall collect the taxes as other taxes are collected. When the taxes are collected they shall be deposited in the treasury of the entity in a separate fund known as the "aviation fund". Only one (1) tax levy for aviation purposes may be imposed upon the assessed property in a county, city, or town unless that unit approves by ordinance the levy of more than one (1) tax for aviation purposes. The fiscal body of the entity may appropriate and transfer to the aviation fund any sum or sums out of the general funds of the entity, in accordance with statutes providing for additional appropriations for the entities, and the fiscal body may borrow money and issue bonds of the entity for aviation purposes and shall turn the proceeds from the bonds into the aviation fund of the entity.

(c) The board of aviation commissioners shall prepare and file with the executive of the eligible entity annually, at the time the

executive designates, a full and detailed estimate of the appropriations required during the ensuing year for the maintenance and operation of the airports and landing fields showing the number of employees, including manager and secretary, and the amount of salary and wages recommended for each. Expenditures for the maintenance and operation of the airports or landing fields are limited to the appropriations of money made in advance by the fiscal body upon furnished estimates. Purchases and expenditures shall be made and allowable claims shall be paid by the board in the same manner as provided for the allowance of other claims against the entity. The fiscal body of the entity may appropriate a sufficient amount for the help, supplies, and equipment necessary for the equipment and maintenance of the airports or landing fields. The fiscal body of the entity may appropriate a sufficient amount as a rotary fund to be used by the board for the purchase of fuels and lubricants to be sold to the general public in the operation of the airport. All funds received from the sale of fuels and lubricants purchased with funds from a rotary fund shall be turned over at least once a month to the treasurer of the entity to remain in the rotary fund to be checked against by the board as other appropriations are disbursed, for the sole purpose of purchasing fuels and lubricants for sale to the public in the operation of the airport. At the end of each fiscal year, the board shall make a detailed statement to the fiscal body showing the amount of money received and paid over to the treasurer to the credit of the rotary fund and also showing the amount of fuels and lubricants on hand. If at the end of a fiscal year the accumulated rotary fund plus value of inventory of fuels and lubricants on hand exceeds the total previous appropriation to the fund by twenty-five percent (25%), the excess shall be turned over to the aviation fund. The board may incur obligations or liability of any sort on behalf of the entity only if it falls within the appropriation specifically made for that purpose. All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general aviation fund to be used by the board for aviation purposes. All funds received by the board from whatever source, except funds received from the sale of fuels and lubricants purchased by funds from the rotary fund, shall be deposited in the treasury of the entity to the credit of the aviation fund.

(d) The board may create a reserve or depreciation account for the purpose of capital improvements or replacements out of operating profits from the operation of the airport.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.81-1996, SEC.10.

IC 8-22-2-8

Sale of aviation land or improvements; ordinances

Sec. 8. (a) If the board wishes to sell part or the whole of the aviation land or improvements owned by the eligible entity, it may prepare an ordinance authorizing the sale and submit it to the fiscal

body of the entity. If the fiscal body passes the ordinance, the land or improvements shall be sold as other lands or improvements of the entity are sold, and the proceeds of the sale shall be deposited in the aviation fund of the entity.

(b) If the board negotiates an agreement to sell trees situated in woods or forest areas owned by the board, the trees are considered to be personal property of the board for severance or sale.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.98-2001, SEC.1.

IC 8-22-2-9

Establishment of restricted zones; approaches to airport; zoning jurisdiction

Sec. 9. (a) In order to provide free air space for the safe descent and ascent of aircraft and for the proper and safe use of an airport or landing field acquired or maintained under this chapter, the board may, subject to approval and adoption by the fiscal body of the eligible entity, establish and fix a restricted zone or zones for a distance in any direction from the boundaries of the airport or landing field so that no building or other structure is erected high enough to interfere with the descent of an aircraft at the gliding angle necessary for safety for the usual type of operation that is conducted at the airport or landing field. The board may, in the name of the entity, acquire by condemnation, upon the payment of due compensation as provided in this chapter, the right to prevent the erection of, and to require the removal of, all buildings, towers, poles, wires, cables, other structures, and trees within the zone or zones which interfere with the gliding angle or as much of any structure or trees that interferes with the gliding angle. When so condemned a permit issued by a department or office of the entity or by any state or other authority for the erection of any structure inside the zone or zones is effective only if approved by the board.

(b) Establishment of a restricted zone or zones outside of an airport or landing field in connection with the condemnation of rights in the land constitutes condemnation and the perpetual annihilation of all rights of the owners of the property within the zone or zones to erect or maintain any building or structure that will interfere with the gliding angle. This result may also be accomplished by absolute condemnation of the land, with perpetual and irrevocable free license to use and occupy the land within the zone for all purposes except the erection of buildings or other structures above the height prescribed.

(c) The jurisdiction of each eligible entity is extended to the promulgation, administering, and enforcement of airport zoning regulations to protect the approaches of an airport that is owned by the entity but located wholly or partially outside the corporate limits of the entity. In case of conflict with any airport zoning or other regulations promulgated by an entity, the regulations adopted under this section prevail.

(d) The zoning jurisdiction granted in this section is exclusive

against jurisdiction granted by any other statute unless any other statute specifically provides otherwise.

(e) All airport zoning regulations adopted under this chapter must be reasonable and may not impose a requirement or restriction that is not reasonably necessary to effectuate the purposes of this chapter. In determining what regulations to adopt, each eligible entity and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-10

Eminent domain

Sec. 10. (a) The board of an eligible entity:

- (1) may exercise the power of eminent domain for the purpose of carrying out this chapter;
- (2) may award damages to landowners for real property rights appropriated; and
- (3) if the board cannot agree with the owners, lessees, or occupants of real property selected by the board for the purposes in this chapter, may procure the condemnation of the property.

The board may proceed under IC 32-24-1. IC 32-24-1 applies to airports, landing fields, and restricted zones adjoining them to the extent that it is not inconsistent with this chapter.

(b) If the land on or across which it is necessary to establish and fix a restricted zone is already in use for another public purpose or has been condemned or appropriated for a use authorized by statute, and is being used for that purpose by the corporation so appropriating it, the public use or prior condemnation does not bar the right of the board to condemn the use of the ground for aviation purposes. Use by the board does not permanently prevent the use of the land for the prior public use or by the corporation condemning or appropriating it.

(c) In a proceeding prosecuted by the board to condemn the use of land for purposes permitted by this chapter, the burden is upon the board to show that its use will not permanently or seriously interfere with the continued public use of the land or by the corporation condemning it, or its successors. However, in the proceeding, the board may require the removal or the burying beneath the surface of the ground of wires, cables, power lines, or other structures within a restricted zone established under this chapter. In a proceeding prosecuted by the board to condemn or appropriate land, the use of land, or rights in land for purposes permitted by this chapter;

- (1) the board and all owners and holders of property or rights in property sought to be taken are governed by and have the same rights to procedure, notices, hearings, assessments, and payments of benefits and awards as are prescribed by statute for

the appropriation and condemnation of real property; and
(2) the property owners have like powers and rights of remonstrance and of appeals to the circuit or superior court in the county in which the entity is located.

Appeals affect only the amount of the assessment of awards of the person appealing and must conform to all laws relating to appeals. The payment of all damages awarded for all lands, property, or rights in them appropriated under this chapter shall be paid entirely out of the funds under the control of the board.

(d) Notwithstanding this or any other statute or any charter, the eligible entity may take possession of the property to be acquired at any time after the filing of the petition describing the property in condemnation proceedings. It is not precluded from abandoning the condemnation of the property in any case where possession has not been taken. The board:

- (1) may acquire and use any land reasonably necessary for the purposes of this chapter; and
- (2) may not acquire or use land that is still being used and is necessary for the purposes for which it was previously condemned.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.2-2002, SEC.46.

IC 8-22-2-11

Recording land or rights acquired

Sec. 11. Within sixty (60) days after land or rights in land are acquired or taken under this chapter, the board shall file and cause to be recorded in the recorder's office of the county in which the land is situated a description of the land sufficiently accurate for its identification and a statement of the purpose for which it is required or taken, signed by a majority of the board.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-12

Airport and landing field operations considered public necessity and benefit; tax exemption of leasehold interests

Sec. 12. (a) The acquisition, establishment, construction, improvement, equipment, maintenance, control, and operation of municipal airports and landing fields for aircraft under this chapter is considered to be a governmental function of general public necessity and benefit and is for the use and general welfare of all the people of Indiana, including the people residing in the eligible entity.

(b) Notwithstanding any other statute, the leasehold estate of any lessee created pursuant to a lease by the board of its aviation related property or facilities, together with any permanent structure erected on the property by the lessee is exempt from property taxation.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.60-1988, SEC.20.

IC 8-22-2-13

Sale of minerals or mineral rights

Sec. 13. The board of an eligible entity may, upon resolution of the board, sell the minerals or mineral rights or royalties, or grant leases for the removal of a mineral in or under an airport or landing field owned by the entity. They shall be sold or leased in the same manner as land is sold or leased under this chapter, and the proceeds derived from these sources shall be deposited with the treasurer of the entity in the aviation fund of the entity and expended as provided by statute for the proceeds of the sale of aviation lands. However, no sale or lease for more than one (1) year may be made, except to the highest and best bidder, after notice of sale or lease has been given within the boundaries of the entity in accordance with IC 5-3-1, the last publication having been made at least one (1) week before the date of the sale or lease.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.78, SEC.1.

IC 8-22-2-14**Joint activities; joint board of aviation commissioners**

Sec. 14. Eligible entities may jointly acquire, construct, develop, improve, equip, or extend airports or property to be used for aviation purposes and maintain, operate, manage, and control it and levy and collect taxes for this purpose. Two (2) or more entities may cooperate for this purpose by contributing to the total cost and sharing the benefits and bearing the obligations accruing from it on terms that they agree upon and evidence by contract. The joint activity is subject to the same provisions and requirements provided for such activity if carried on by any one (1) of the entities individually, except that the joint board of aviation commissioners may be composed of more than four (4) but not more than seven (7) members and the maximum allowance may be increased correspondingly. In case of failure of agreement between two (2) or more entities upon petition filed by one (1) or more of the entities involved, the aeronautics commission of Indiana, after investigation and hearing, shall determine and prescribe reasonable and equitable participation including representation on the joint governing board and shall prescribe other rules and regulations as necessary.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-15**Assistance to other entities**

Sec. 15. Whenever the fiscal body of an eligible entity determines that the public interest and the interest of the entity will be served by assisting another entity to exercise the powers granted by this chapter, the former entity may furnish assistance by gift, or lease with or without rental, of real property, by the donation, lease with or without rental, or loan, of personal property, and by the appropriation of monies that may be provided for by taxation or the issuance of bonds in the same manner as funds might be provided for the same purposes if the entity were exercising the powers granted

in its own behalf.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-16

Transfer of funds to general fund of entity

Sec. 16. Whenever the board of an eligible entity accumulates funds that are derived from sources other than from the operation of the airport and that are not needed for the operation or maintenance of the airport, the board, upon a majority vote of its members, may without notice transfer all or part of the funds to the general fund of the entity if the funds were not derived from taxation. This section does not apply to funds derived from lands leased from the federal government.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-17

Federal, public, or private grants

Sec. 17. (a) An eligible entity acting by and through its board under IC 8-21-8 may accept, receive, and receipt for federal monies and other monies, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports and other air navigation facilities, and sites for them, and comply with federal law and rules and regulations made under them for the expenditure of federal monies on airports and other air navigation facilities.

(b) Subject to IC 8-21-8, the board has exclusive power on behalf of the entity to submit to the proper state and federal agencies applications for grants of funds for airport development and to make or execute representations, assurances, and contracts and to enter into agreements with state or federal agencies relative to the development of a municipal airport.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-18

Buildings and facilities; construction or improvements; income and revenues; bonds; surplus

Sec. 18. (a) Subject to the approval of the fiscal body of the eligible entity, the board may contract with any person for construction, extensions, additions, or improvements of an aircraft hangar or revenue producing building or facility located or to be located on the airport of the entity, the cost of which is to be paid in the manner authorized by this section.

(b) A contract made under this section must be authorized by ordinance providing that the principal and interest of bonds issued for the payment of the cost of the construction, extensions, additions, or improvements shall be paid exclusively from the revenues and receipts of the aircraft hangars or revenue producing buildings or facilities, unless otherwise provided by this section.

(c) The fiscal body must, by ordinance, set aside the income and revenues of the buildings or facilities into a separate fund, to be used

in the maintenance and operation and in payment of the cost of the construction, extensions, additions, or improvements. The ordinance must fix:

- (1) the proportion of the revenues of the buildings or facilities that is necessary for the reasonable and proper operation and maintenance of them; and
- (2) the proportion of the revenues that are to be set aside and applied to the payment of the principal and interest of bonds.

The ordinance may provide for the proportion of the revenues that are to be set aside as an adequate depreciation account.

(d) Whenever the board determines that there exists a surplus in funds derived from the net operating receipts of a municipal airport, then the board may recommend to the fiscal body that a designated amount of the surplus fund be appropriated by special or general appropriation to the "aviation revenue bond account" for the relief of principal or interest of bonds issued under this section. However, this surplus in funds may not include monies raised by taxation.

(e) The fiscal body may issue and sell bonds to provide for the payment of costs of the following:

- (1) Airport capital improvements, including the acquisition of real property.
- (2) Construction or improvement of revenue producing buildings or facilities owned and operated by the eligible entity.
- (3) Payment of any loan contract.

The fiscal body may issue and sell bonds bearing interest, payable annually or semiannually, executed in the manner and payable at the times not exceeding forty (40) years from the date of issue and at the places as the fiscal body of the entity determines, which bonds are payable only out of the "aviation revenue bond account" fund. The bonds have in the hands of bona fide holders all the qualities of negotiable instruments under law.

(f) In case any of the officers whose signatures or countersignatures appear on the bonds or the coupons ceases to be the officer before the delivery of the bonds to the purchaser, the signature or countersignatures are nevertheless valid and sufficient for all purposes, the same as if he had remained in office until the delivery of the bonds. The bonds and their interest issued against an "aviation revenue bond account" fund and the fixed proportion or amount of the revenues pledged to the fund does not constitute an indebtedness of the entity under the Constitution of the State of Indiana.

(g) Each bond must state plainly upon its face that it is payable only from the special fund, naming the fund and the ordinance creating it, and that it does not constitute an indebtedness of the entity under the Constitution of the State of Indiana. The bonds may be issued either as registered bonds or as bonds payable to bearer. Coupons and bearer bonds may be registered as to principal in the holder's name on the books of the entity, the registration being noted on the bond by the clerk or other designated officer, after which no transfer is valid unless made on the books of the entity by the

registered holder and similarly noted on the bonds. Bonds so registered as to principal may be discharged from the registration by being transferred to bearer, after which it is transferable by delivery but may be registered again as to principal. The registration of the bonds as to the principal does not restrain the negotiability of the coupon by delivery, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons are surrendered, the surrender and cancellation of them shall be noted on the bond and then interest on the bond is payable to the registered holder or order in cash or at his option by check or draft payable at the place or one (1) of the places where the coupons are payable.

(h) The bonds shall be sold in a manner and upon terms that the fiscal body considers in the best interest of the entity.

(i) All bonds issued by an eligible entity under this section are exempt from taxation for all purposes, except that the interest is subject to the adjusted gross income tax.

(j) In fixing the proportion of the revenues of the building or facility required for operation and maintenance, the fiscal body shall consider the cost of operation and maintenance of the building or facility and may not set aside into the special fund a greater amount or proportion of the revenues and proceeds than are required for the operation and maintenance. The sums set aside for operation and maintenance shall be used exclusively for that purpose, until the accumulation of a surplus results.

(k) The proportion set aside to the depreciation fund, if a depreciation account or fund is provided for under this section, shall be expended in remedying depreciation in the building or facility or in new construction, extensions, additions, or improvements to the property. Accumulations of the depreciation fund may be invested, and the income from the investment goes into the depreciation fund. The fund, and the proceeds of it, may not be used for any other purpose.

(l) The fixed proportion that is set aside for the payment of the principal and interest of the bonds shall, from month to month, as it is accrued and received, be set apart and paid into a special account in the treasury of the eligible entity, to be identified "aviation revenue bond account," the title of the account to be specified by ordinance. In fixing the amount or proportion to be set aside for the payment of the principal and interest of the bonds, the fiscal body may provide that the amount to be set aside and paid into the aviation revenue bond account for any year or years may not exceed a fixed sum, which sum must be at least sufficient to provide for the payment of the interest and principal of the bonds maturing and becoming payable in each year, together with a surplus or margin of ten percent (10%).

(m) If a surplus is accumulated in the operating and maintenance fund that is equal to the cost of maintaining and operating the building or facility for the twelve (12) following calendar months, the excess over the surplus may be transferred by the fiscal body to

either the depreciation account to be used for improvements, extensions, or additions to property or to the aviation revenue bond account fund, as the fiscal body designates.

(n) If a surplus is created in the aviation revenue bond account in excess of the interest and principal of bonds, plus ten percent (10%), becoming payable during the calendar, operating, or fiscal year then current, together with the amount of interest or principal of bonds becoming due and payable during the next calendar, operating, or fiscal year, the fiscal body may transfer the excess over the surplus to either the operating and maintenance account, or to the depreciation account, as the fiscal body designates.

(o) All money received from bonds issued under this section shall be applied solely for the purposes listed in subsection (e). There is created a statutory mortgage lien upon buildings or facilities for which bonds are issued in favor of the holders of the bonds and of the coupons of the bonds. The buildings or facilities so constructed, extended, or improved remain subject to the statutory mortgage lien until payment in full of the principal and interest of the bonds.

(p) A holder of the bonds or of the attached coupons may enforce the statutory mortgage lien conferred by this section, and may enforce performance of all duties required by this section of the eligible entity issuing the bond or of any officer of the entity, including:

- (1) the making and collecting of reasonable and sufficient rates or rentals for the use or lease of the buildings or facilities, or part of them established for the rent, lease, or use of the buildings or facilities;
- (2) the segregation of the revenues from the buildings or facilities; and
- (3) the application of the respective funds created by this section.

(q) If there is a default in the payment of the principal or interest of any of the bonds, a court having jurisdiction of the action may appoint an administrator or receiver to administer, manage, or operate the buildings or facilities on behalf of the entity, and the bondholders, with power to:

- (1) charge and collect rates or rentals for the use or lease of the buildings or facilities sufficient to provide for the payment of the operating expenses;
- (2) pay any bonds or obligations outstanding against the buildings or facilities; and
- (3) apply the income and revenues thereof in accord with this section and the ordinance.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.77-1990, SEC.1; P.L.192-2002(ss), SEC.146.

IC 8-22-2-18.5

Payment of costs of airport capital improvements; loans; requirements

Sec. 18.5. (a) The board may negotiate terms and borrow money

from any source for the payment of the costs of airport capital improvements, including the acquisition of real property or construction or improvement of revenue producing buildings or facilities located on an airport and owned and operated by the eligible entity, subject to the following requirements:

(1) The loan contract must be approved by resolution of the board and the fiscal body of the eligible entity that established the board.

(2) The loan contract must provide for the repayment of the loan in not more than forty (40) years.

(3) The loan contract must state that the indebtedness is that of the board, is payable solely from revenues of the board that are derived from either airport operations or from revenue bonds, and may not be paid by a tax levied on property located within the district.

(4) The loan contract must be submitted to the department of local government finance, which may approve, disapprove, or reduce the amount of the proposed loan contract. The department of local government finance must make a decision on the loan contract within thirty (30) days after the contract is submitted for review. The action taken by the department of local government finance on the proposed loan contract is final.

(b) A loan contract issued under this chapter is issued for essential public and governmental purposes. A loan contract, the interest on the contract, the proceeds received by a holder from the sale of a loan contract to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation as provided in IC 6-8-5.

As added by P.L.77-1990, SEC.2. Amended by P.L.90-2002, SEC.327.

IC 8-22-2-19

Validation of acts

Sec. 19. All acts of an eligible entity in establishing an airport or landing field, and all other acts in connection with them, taken by the entity under a prior statute, including all bonds issued, authorized, or sold under that statute or any other statute, the proceeds of which have been either used or designed for purposes stated in this chapter, and all acts of officials relating to any of the matters stated, are ratified as if authorized by statute.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-20

Violations; exception; offense

Sec. 20. A person who recklessly violates this chapter, except for section 18, commits a Class B misdemeanor.

As added by Acts 1980, P.L.8, SEC.73.